681 H) Sanctions: Further Notes (fragmentary):

1) Punishment: fine, exile, or death of person responsible, whether an individual or a family group[55].

[671] 2) Gradation: variable, according to stipulations in the various qanuns[56]. Rifian law recognizes the same degree of responsibility in [672] his accomplices as in the man who actually committed the crime, by assimilating them with his kin group[57].

681 613 [571] 3) Victim: receives no indemnity, except through what he or his kinsmen get as their share of the fine, which is equitably distributed among all the representatives of the dharfiqin[58], thus appearing more than anything else as a payment for services rendered; and the dharfiqin heads divided it up in the same way among their constituent nubath[59]. Thus, if the Rifian is encumbered with the responsibility of executive power[60] (all are obliged to stand against an aggressor), he still participates in the benefits of such power in a true popular sovereignty, and he never cedes his rights or duties.

000 4) Role of Jma'th in Application of Custom: to influence matters or conceal them, by money, force or politicking behind the scenes. Agrau or assembly of the aitarba'in; assessors and arbiters (tulba, shurfa and imrabdhen); role of liffs (aid to their liff-mates in payment of fines, etc.) (This subsection is completely fragmentary.)

682 683 In summation, three kinds of offenses were punished:

1) murder and woundings, with corresponding fines, and vengeance;

683 684 2) abuse of women (if voluntary on their part, each party had to pay 50 duros, and if it was purely and simply rape, the guilty man paid 50 duros);

661 and made him pasture the few goats he had. The jma'th or its mqaddim needed money, and so one day they called him up and fined him 65 duros, accusing his mother of incest and saying that if he did not pay up, they would tell the rest of the tribe and it would cost him more. The boy ran away, out of shame.

428 429 685 d) Muhammad Hmidu n 'Abd Allah of Aith Finathen, on the death of his father, was brought up by his grandmother, and when she died, by his cousins, who periodically fed and clothed him in return for his acting as a goatherd for them. They kept and divided up his inheritance in land from his father, and did not give it back to him, in spite of the constant excitement of the qa'id over the matter[76].

J. Responsibility:

672 [671] Collective responsibility as reflected in the qanuns is an amplification of responsibility to one's kin group and even...to the same social ties as those of other tribes (sic)[77]; this forces one's fellow tribesmen to comply with the duty of rectifying an injury or damage caused by one of their own people. It is an instinctive and necessary means of defense, and is done so that crimes will not go unpunished. This is all a consequence of the rudimentary social organization of the Rifians, of the difficulty of inquiry, of the lack of repressive organs[78] and of impartial and dispassionate individuals, such as judges. When independent states multiply and the extension of each one of them diminishes, such factors as the above make extradition (sic) more difficult and impunity more easy; and, for this reason, a group attribute is the obligation to educate (i.e. enculturate) and answer for its components. Thus, when the group publicly claims that

672 it will not answer for the individual, it remains exempt from the responsibilities and aspersions which might fall upon it....A freedom or state of tranquillity (i.e. truce or even peace) which the group could thus regain at such a high price as the public denial of one of its members was only undertaken when there was good reason for doing so (i.e. when a group feared the very certain reprisals of powerful families) and when the inconveniences were greater than the advantages.

Thus it is not the individual alone who is responsible for his acts; for his family, then his jma'th and in the last analysis his tribe will back him up. There is always someone responsible for
[681] every crime. He never remains unpunished, nor does the penalty imposed
[671] upon him lapse, even after many years. Rifian law is not charitable and it does not beg. It punishes, but it does not pardon; it exacts, but it does not implore. Thus there is an individual responsibility with a complementary and collective one behind it.

672 671 Does this responsibility, then, extend equally to all those who participate in a reprehensible act? No. There is, furthermore, the group (author's italics) exception already mentioned, when a group, by public announcement, rejects what could happen to it in the course of a punishable action committed by one of its members, attenuated by considerations of minority (i.e. if committed by a child or a woman), physical abnormality (if committed by a crazy person or an idiot), origin (if committed by a stranger), day or even hour of commission (see the qanun of the Aith 'Abd Allah, La Ley Rifeña, pp. 45-51), and it is exaggerated if committed at night (as in the qanun of Thmasind, La Ley Rifeña, pp. 37-44), by a stranger or infidel. There is also

an exemption for homicide in defense of one's property (as in the qanun of Lower Thmasind).

It is not possible to think of a minute dosification of laws of great instability which were usually worked out as a response to a pressing need at a pressing time and which would in turn be negated or destroyed through the rise of new chiefs. For this reason, an isolated and superficial examination of the qanuns says little and induces error. They are not simple and incomplete tabulations of fines. Rather, they are the codification of Rifian custom, graphically worked out only for variable matters and not for permanent ones, such as personal law with its concomitant regulations regarding inheritance, etc. They are rules of coexistence which were formulated as events demanded, and not (translator's italics) with long-term ends in view. But even though they are embryonic, they are useful.

The qanun of the Aith 'Abd Allah distinguishes between doers and accomplices[79].

This proves what has been said
554 regarding the treatment of social organization in connection with the
671 ascendency and distinctiveness of the clans, of the suq, a true par-
614 liament, which is attended by the most outstanding men of the clan,
621 tacit or vocal delegates of the jma'ths who form an arictocracy known
623 as the Aitharbi'in, whose circumstantial attendance in some cases
619 forms the agraw, the directing assembly and organism of the tribe.
646

614 This also serves to confirm our opinion that in the Rifian
671 area it is not the tribe which legislates and executes, but the clan,
[619] through its leaders, who parley in the market. It is thus the clan
[554] and its representatives in which all powers are concentrated and only
in case of a decrease in strength do they pay heed to the rest. The
Rifian clan is thus a truly autonomous state. It makes the law and
[681] executes it. Look, for instance, at the division of the fine, how
not a single céntimo goes to the representatives of other clans, even
if they are of the same tribe.

681 Notes 11, 12 and 13, which deal with the division of the fine,
[628] prove many of these notions. The victim or his family does not benefit
from it, for from the beginning his business is individual; a member
of his family (i.e. one of his agnates) will already be designated to
671 avenge him. The law does not punish more than the violation of the
pact, indemnifying those who remain faithful to such violation and saw
628 to its fulfillment. For this reason the perpetrator and his family
[672] (agnates) are punished, while all those who intervene in the service
of justice benefit, for they or their representatives carry it out.
If they get no money, as such, for such services, nobody would be
interested, for in carrying them out, he would not be bothered to

695 Valid and complete testimony in virtue of which both instrumental witnesses bring testimony against them.

000 (Two illegible signatures follow.)

692 At the same time, they agreed that whoever should commit any of the wrongs (literally, "things") expressed herein, the case, together with him (the man who committed it) shall be taken to Sayyid Mhammad bin Musa[32] and Sayyid Ahmad bin 'Ali[33] (Blanco: note d).

685 Whoever enters an orchard with intent to rob shall pay 20 uqiyyas. If a bull should start to trample property adjacent to that 685 of its owner, the latter shall pay one peseta. 692

The guarantors (of the fulfillment of this agreement) are three. The Muqaddam Muhammadi bin Muhammad bin Ahmad, Hammu bin Muhammad bin 'Ali bin 'Abdallah, and Muhammad bin 'Umar bin Ahmad bin al-Hasan (Blanco: note e).

[681] Regarding the amount (of the fines imposed) with respect to orchards in cases in which they are injured by animals, this will be donated to their mosque (Blanco: note f).

If they should break a branch of a fig or other tree belonging to anyone, the owner of the animals will pay 20 (uqiyyas).

000 A signature in Arabic follows, which appears to be al-Bu Jma' bin Muhammad (signed).

B) Commentary:

671 The reading of this qanun clearly indicates in its first para-
624 graph the names of those who have established it, all of them members of the jma'th of Imhauren, bordering the Island of Alhucemas, in the
624 plain of the same name. Every two or three headmen or iziddifen (sing.,
613 aziddif, "head") are the visible representatives of the lineage groups
554

5: Blanco Izaga G-4,5 (1914-1945) 1975 MX3 Rif MX3
Aith Waryaghar

671 Muhammad bin Muhammad; at-Talib Sidi Shu'aib bin al-Faqir Misa'ud;
695 Misa'ud bin Muhammad; Muhammad bin Muhammad al-'Attabi; 'Ali bin
621 al-Faqir Muhammad Azifzaf; Muhammad bin Muhammad of Ait Bu Bakr;
623 Misa'ud bin Muhammad; Sa'id bin 'Azzuz; Muhammad bin Muhammad; Muhammad bin ash-Shaikh 'Ali; and Muhammad bin Muhammad bin 'Ayad Amti; and giving respect to 'Ali bin 'Azzuz bin Muhammad bin 'Azzuz, (recognizing) that he is their shaikh, and, by the same token, the shaikh of the jama'a of Tamasint.

685 (Blanco: paragraph b) At the same time, regarding the orchards
821 and gardens, they agreed that if anyone be detained (while stealing) during the night, (he shall pay a fine of) 10 mithqals, and if he should do so during the day, he shall pay 50 uqiyyas. If he should steal cereals or fruits (literally, "figs"), he shall be punished in the prescribed manner with respect to orchards. If he should steal during the day, he shall pay 50 mithqals in money. If he should die
685 during and because of committing theft, there shall in no case be any indemnity to be paid.

682 (Blanco: paragraph c) If anyone should unsheath his dagger (with intent to attack), he shall pay one duro.[38] If he should point his rifle at someone of the aforementioned jama'a, he shall pay 10 mithqals to the shaikh.

685 (Blanco: paragraph d) If (the entrance) of (his) animals, such
672 as goats, cattle, sheep and donkeys, should take place in the cereal (fields) of his neighbor, he shall pay 10 muzunas.

574 (Blanco: paragraph e) If someone should spend the night as a
689 guest in the jama'a of Tamasint, all shall go to where he is staying

671 of knowing the needs of the moment, not past or future needs which do
554 not mean anything to anybody. They are living laws designed for living
623 people, for those present.

671 Paragraph b shows us how they embellish their law, taking aggra-
672 vating and attenuating circumstances into account. Among these are
nocturnity and dwellings (where they guard their fig and grain re-
[682] serves). Attenuating and, even more, exemption from responsibility,
homicide is legitimate if committed in self defense or in defense of
one's property.

681 Paragraph c punishes intention, in order to avoid disputes,
554 and makes a small concession to personal power, permitting the shaikh
661 to keep for himself this fine destined for the common fund.
671

685 Paragraph d is concerned with injuries to crops by animals,
672 which are herded by children. The punishment is minimal.
671

In paragraph e, the law of the jma'th establishes and regulates
671 the social duty of hospitality, imposing the burden equally on all its
623 members. Guests learn that it is not only the shaikh who pays for
574 their upkeep, but all the members of the jma'th, even the poor ones.

623 Consider also the excessive number of voluntary servitors who
574 dance continued attendance on the guest with towels, basins and soap,
and finally the amphitrion hands over to their expectant voracity all
the remains of your meal, except for one small dish which, passing
through the door, is submerged in the mysterious interior of the
dwelling as a reward for the activity of the women or children who
prepared it. When you leave, each member of the jma'th retires with
whatever he presented for your comfort: pillows, blankets, soap, coffee
pot or teapot, towel, glasses, candles, etc.

224 672 685 Not exacting responsibility from the party is based on the fact that theft from beehives, for example, is not undertaken during the hunting, for the following day any disagreement between the members of the party would denounce it; and because of this, when the hunt is over, whoever has the intention to do any stealing returns at night and without witnesses either to the hives or the fruit trees, the disposition of which he noticed during the day. For this reason the 224 672 accuser obliges the hunters to point out only those who passed in his neighborhood.

224 183 Perhaps in compensation for such damages, there exists another Rifian custom of presenting in the houses any animals which, wounded and pursued, take refuge in the hedges of cactus surrounding the dwelling; they are decapitated and thrown into the house, or presented to the owners.

L) Taboos:

224 782 784 A Rifian's religion and system of beliefs[199] obliges him to make a special ceremony in the sacrifice of animals (by cutting their throats), to abstain from eating certain unclean animals, dead flesh, [751] etc. These, then, are the bases of certain hunting practices: not only to avoid sin, but to maintain a certain level of hygiene.

For this reason, a shot, a trap-setting, and an unleashing of a ferret or a saluki is always preceded by the invocation Bismillah r-rahman r-rahim, "In the name of God, the Merciful, the Compassionate".

262 411 The clansmen of the Aith Hadhifa do not eat animals decapitated by stick or cudgel blows (nor do any other Rifians).

000 Animals caught in a trap which has been set with the Bismillah